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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,815	06/02/2006	Dirk Gandolph	PD030124	1952

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EXAMINER	
FRIEDEL, VANEL	
ART UNIT	PAPER NUMBER
3687	

MAIL DATE	DELIVERY MODE
05/27/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/581,815	GANDOLPH ET AL.	
	Examiner	Art Unit	
	VANEL FRENEL	3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 March 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,9 and 11-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6, 9, 11-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/03/09 has been entered.

Notice to Applicant

2. This communication is in response to the Amendment filed on 3/30/09. Claims 1-6 and 12 have been amended. Claims 1-6, 9 and 11-14 are pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-6, 9 and 11-14 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Gordon et al. (2002/0013944) in view of Dinallo et al. (5,929,857).

As per claim 1, Gordon discloses a method for generating an interactive electronic menu on a display, the menu comprising menu buttons wherein a menu button may be in a deselected, selected or activated state, and the menu being coded

into a menu data segment-comprising: retrieving a data segment having encoded therein at least "graphic" data for a first and a second menu button and data connecting the first and the second button by a parent-child relationship, wherein the second menu button being a child of the first menu button can only be selected while the first menu button is selected (See Gordon,Figs.5-6; Page 5, Paragraphs 0047-0049); and, wherein at least one button command is associated to the first menu button and coded into said menu data segment, the button command being usable for modifying a visibility of at least the second menu button (See Gordon, Figs.5-6; Page 4, Paragraphs 0036-0038).

Gordon does not explicitly disclose generating the interactive menu on a display, wherein at least the first menu button but not the second menu is displayed; and upon selection of the first menu button and execution of said button command, modifying said interactive menu such that the first and the second menu button are displayed simultaneously.

However, this feature is known in the art, as evidenced by Dinallo. In particular, Dinallo suggests that generating the interactive menu on a display, wherein at least the first menu button but not the second menu is displayed (See Dinallo, Figs.4-7; Col.8, lines 12-67; Col.9, lines 17-67); and upon selection of the first menu button and execution of said button command, modifying said interactive menu such that the first and the second menu button are displayed simultaneously (See Dinallo, Figs.4-7; Col.8, lines 12-67; Col.9, lines 17-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Dinallo within the system of Gordon with the

motivation of providing a DVD system includes a graphic user interface which is constructed during information playback from commands and attributes extracted from the DVD data stream. In particular, the extracted commands are presented to an intelligent DVD browser engine which gathers information about the shape and location of a user menu from the navigation data in the DVD data stream. The browser engine operates with a database containing sets of predefined images which depict controls, buttons and other graphic images that form part of the user menu (See Dinallo, Col.3, lines 24-33).

As per claim 2, Gordon discloses method wherein the second menu item is only visible when the first menu button is in the selected state (See Gordon, Page 4, Paragraphs 0037-0039).

As per claim 3, Gordon discloses method wherein the second menu button is not selectable (See Gordon, Page 5, Paragraph 0046).

As per claim 4, Gordon discloses method wherein the menu data segment contains at least for the first and the second menu button neighbour information, the neighbour information defining which other menu button may be selected when said first or second menu button is in the selected state (See Gordon, Page 5, Paragraphs 0043-0045).

As per claim 5, Gordon discloses method wherein the menu relates to the content of a removable storage medium, and the menu data segment is stored on the respective removable storage medium (See Gordon, Fig.4; Page 2, Paragraphs 0026-0027).

As per claim 6, Gordon discloses method wherein "graphic data of" said other menu data item and is also coded into said menu data wherein the visibility also comprises the colour look- up table relating to a menu item (See Gordon, Page 3, Paragraphs 0032-0038).

As per claim 9, Gordon discloses method wherein a third menu button is connected to the second menu button by a parent-child relationship, wherein the third menu button being a child of the second menu button can only be selected when the second menu button is selected, and wherein the first, the second, and the third menu button are coded into the same data segment (See Gordon, Page 5, Paragraphs 0047-0049).

As per claim 11, Gordon discloses method wherein the parent-child relationship within the menu data segment is indicated by a unidirectional or bi- directional link or identifier being retrieving from the menu data segment (See Gordon, Page 4, Paragraph 0041).

As per claim 12, Gordon discloses apparatus for generating an interactive electronic menu on a display, the menu comprising menu buttons, wherein a menu button may be in a deselected, selected or activated state, and the menu being coded into a menu data segment, comprising: means for retrieving a data segment having encoded therein at least "graphic" data for a first and a second menu button and data connecting the first and the second menu button by a parent-child relationship, wherein the second menu button being a child of the first menu item can only be selected while the first menu button is selected (See Gordon, Page 5, Paragraphs 0043-0048); and

, wherein at least one button command is associated to the first menu button and coded into said menu data segment (See Gordon, Page Figs 5-6; Page 4, Paragraphs 0036-0038); and means for modifying a visibility of at least the second menu button (See Gordon, Figs.5-6; Page 4, Paragraphs 0036-0038).

Gordon does not explicitly disclose means for generating the interactive menu on a display, wherein at least the first menu button but not the second menu is displayed; and means for modifying said interactive menu, upon selection of the first menu button and execution of said button command, such that the first and the second menu button are displayed simultaneously.

However, this feature is known in the art, as evidenced by Dinallo. In particular, Dinallo suggests that means for generating the interactive menu on a display, wherein at least the first menu button but not the second menu is displayed (See Dinallo, Figs.4-7; Col.8, lines 12-67; Col.9, lines 17-67); and means for modifying said interactive menu, upon selection of the first menu button and execution of said button command,

such that the first and the second menu button are displayed simultaneously (See Dinallo; Figs.4-7; Col.8, lines 12-67; Col.9, lines 17-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Dinallo within the system of Gordon with the motivation of providing a DVD system includes a graphic user interface which is constructed during information playback from commands and attributes extracted from the DVD data stream. In particular, the extracted commands are presented to an intelligent DVD browser engine which gathers information about the shape and location of a user menu from the navigation data in the DVD data stream. The browser engine operates with a database containing sets of predefined images which depict controls, buttons and other graphic images that form part of the user menu (See Dinallo, Col.3, lines 24-33).

As per claim 13, Dinallo discloses apparatus wherein the second menu button is rendered as a new graphic element on the display, wherein the newly rendered button supersets and erases all other buttons rendered before on the same display position and wherein the remainder of the display is not re-rendered (See Dinallo; Figs.4-7; Col.8, lines 12-67; Col.9, lines 17-67).

As per claim 14, Dinallo discloses apparatus wherein the second menu button is rendered as a new graphic element on the display, wherein the newly rendered button supersets and erases all other buttons rendered before on the same display position

and wherein the remainder of the display is not re-rendered (See Dinallo; Figs.4-7; Col.8, lines 12-67; Col.9, lines 17-67).

Response to Arguments

5. Applicant's arguments filed on 3/30/09 with respect to claims 1-6, 9 and 11-14 have been considered but they are not persuasive. Applicant's arguments will be answered in the manner in which they appear in the response filed on 3/30/09.

In response, all of the limitations which Applicant disputes as missing in the applied references, including the features newly added in the 3/09/09 amendment, have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the collective teachings of Gordon and/or Dinallo based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the present Office Action and in the prior Office Action, and incorporated herein. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.1986).
In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would

have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANEL FRENEL whose telephone number is (571)272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanel Frenel/

Examiner, Art Unit 3687

May 25, 2009